

## Title 8

### HEALTH AND SAFETY

#### Chapters:

<u>8.04</u>	<u>Barns and Stables</u>
<u>8.08</u>	<u>Rat Control</u>
<u>8.12</u>	<u>Weed Control</u>
<u>8.16</u>	<u>Nuisances</u>
<u>8.18</u>	<u>Chronic Nuisance</u>
<u>8.20</u>	<u>Flammable Liquid Delivery Vehicles</u>
<u>8.24</u>	<u>Petroleum Product Service Pumps</u>
<u>8.28</u>	<u>Discarded Vehicles</u>

#### Chapter 8.04

### BARNS AND STABLES

#### Sections:

- 8.04.010 Unsanitary conditions prohibited.
- 8.04.020 Removal of offensive matter.
- 8.04.030 Complaint filing.
- 8.04.040 Violation—Penalty—Nuisance declared when.

8.04.010 Unsanitary conditions prohibited. It is unlawful for any person or persons, firm or corporation, either as owner, proprietor, lessee or manager thereof to maintain or use any barn, stable, stall or place within the corporate limits of the city where any horse or horses, cow or cattle, or other domestic animals of any kind are kept, in any place or upon any premises within the corporate limits of the city in such a manner or under conditions such as to constitute an unclean or unsanitary place. (Ord. 2017 §1, 1941).

8.04.020 Removal of offensive matter. Any barn, stable stall or place mentioned in section 8.04.010 shall be conclusively deemed and considered to be unsanitary where any excreta from animals, manure decaying animal or vegetable matter or filth of any kind is allowed to accumulate or remain in any barn, stable, stall or place, or upon any adjacent premises thereto for a period of twenty-four hours, so as to make an

offensive odor or a breeding place for flies, or any other insect, microbe or germ which shall in any way be injurious, detrimental or offensive to any of the inhabitants of said city or to the traveling public. All excreta from such animals, manure, decaying animal or vegetable matter or filth of any kind shall be removed from such barn, stable stall or place each and every twenty-four hours, and shall be placed in a container sufficiently tight and covered over in such a manner as to prevent the escape of any offensive or obnoxious odor therefrom, and to prevent the same from becoming a breeding place for flies or any other insect, microbe or germ which will in any way be injurious, detrimental or offensive to any inhabitants of the city. Said container shall not be permitted to remain within twenty-five feet of any dwelling house or other building or place occupied by human inhabitants, and each and every said container shall be emptied and cleaned out at least once in every three days during the months of May, June, July, August, September and October of each year, and shall be emptied and cleaned out at least once in every ten days during the remaining portion of the year. The contents of the container shall be removed out of the city, and the container shall at all times be kept in such sanitary condition as may be necessary to prevent the same becoming a breeding place for flies or other insects, microbes or germs and to prevent the same from giving off offensive or obnoxious odor, or in any way being injurious to the health, safety, convenience or sanitation of any person or persons within the corporate limits of the city. (Ord. 2017 §2, 1941).

8.04.030 Complaint filing. Any resident of the city feeling aggrieved by reason of the existence of any barn, stable, stall or place in an unsanitary condition and in violation of the provisions of this chapter shall make written complaint which shall be addressed to the owner, occupant or party in charge of or responsible for such barn stable, stall or place so complained of, setting forth the conditions then existing for which such complaint is made. The same shall be signed and verified by the complainant, and the recorder of the city shall attach thereto a notification to such owner, occupant or party in charge of or responsible for the condition of said barn, stable, stall or place of lodging of said complaint, that said barn, stable, stall or place and the premises surrounding same shall be put in such sanitary condition as required by this chapter within twenty-four hours from the date of the service of such notice. The complaint made by such citizen, as well as said notification, shall be served upon such owner, occupant or party in charge of or responsible for said barn, stable, stall

or place by the chief of police or other police officer or the street commissioner of the city. If said barn, stable, stall or place and the surrounding premises are not put in a sanitary condition to comply with the requirements of this chapter within said period of twenty-four hours, the owner, occupant or party in charge of or responsible for the condition of said premises shall thereupon be subject to arrest for violation of the provisions of this chapter, and upon conviction shall be subject to the penalties as provided by Section 8.04.040A. (Ord. 2017 \$3, 1941).

8.04.040 Violation-Penalty-Nuisance declared when.

A. Any person or persons, firm or corporation who maintains any barn, stable, stall or place within the corporate limits of the city where horse or horses, cow or cattle, or other domestic animals of any kind are kept contrary to the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof before the city recorder shall be punished by a fine of not less than ten dollars nor more than fifty dollars, and in default in the payment thereof shall be imprisoned in the city jail one day for each two dollars of such fine; each additional day in which such condition is permitted to remain or continues to exist thereafter shall constitute a new offense.

B. In addition to the penalties provided in subsection A of this section for violation of this chapter and for failure on the part of the owner, occupant or party in charge of or responsible for the conditions of said building to comply with the terms of this chapter, in causing such barn, stable stall or place to be put into such sanitary condition as by this chapter required, said barn, stable, stall or place shall be deemed a nuisance. (Ord. 2017 \$4, \$5, 1941).

Chapter 8.08

RAT CONTROL

Sections:

- 8.08.010 Definitions.
- 8.08.020 Eradication-Required.
- 8.08.030 Eradication-Notice-Compliance required.
- 8.08.040 Ratproofing-Time limit for compliance.
- 8.08.050 Ratproofing-Maintenance required.
- 8.08.060 Ratproofing-Removal prohibited.
- 8.08.070 Cement floors required when.

8.08.080 Feed storage.  
Sections: (Continued)

- 8.08.090 Garbage accumulation and dumping prohibited.
- 8.08.100 Rubbish or junk accumulation prohibited—  
Exception.
- 8.08.110 Inspection authority.

8.08.010 Definitions. For the purposes of this chapter the following definitions shall apply:

A. "Building" means any structure or dwelling, whether public or private, which is devoted to or designed for occupancy, or for the transaction of business, for the rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, apartment buildings, roominghouses, motels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, outhouses, sheds, barns and other structures on premises used for business or dwelling purposes, whether the same are occupied or not.

B. "Health officer" means the city health officer or any duly authorized representative.

C. "Occupant" means the individual, partnership or corporation using or occupying any building or part thereof, whether owner or lessee. In the case of a vacant building, the term "occupant" means the owner or the person who as agent of the owner undertakes to care for the same for the owner.

D. "Owner" means the actual owner or owners of a building within the city, whether individuals, partnerships or corporations and the agent thereof, and also the lessee or lessees thereof when, under the terms of a lease, the lessee is responsible for maintenance and repairs.

E. "Rat eradication" means the elimination or extermination of rats within buildings of any kind by any of all measures, such as poisoning, fumigation, trapping or clubbing.

F. "Rat harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a building of any kind.

G. "Ratproofing" means and applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of the closing of all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by

climbing or by burrowing, with material or equipment impervious to rat-gnawing. (Ord. 2396 §1, 1950).

8.08.020 Eradication-Required. It is ordained and required that buildings or structures in the city shall be freed of rats, and maintained in a rat-free condition to the satisfaction of the chief of police. (Ord. 2396 §2, 1950).

8.08.030 Eradication--Notice--Compliance required. Whenever the chief of police notifies the occupant or occupants of a building in writing that there is evidence of rat infestation of the building, said occupant or occupants shall immediately institute rat eradication measures, and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the chief of police to be free of rat infestation. Unless aid measures are undertaken within five days after receipt of notice, it shall be construed as a violation of the provisions of this chapter and the occupant shall be held responsible therefor. (Ord. 2396 §3, 1950).

8.08.040 Ratproofing-Time limit for compliance. Whenever the chief of police notifies the owner of any building in writing that there is evidence of the need of ratproofing of the building, said owner shall take immediate measures for ratproofing the building, and unless said work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than fifteen days, or within the time to which a written extension may have been granted by the health officer, then the owner shall be deemed guilty of an offense under the provisions of this chapter. (Ord. 2396 §4, 1950)

8.08.050 Ratproofing-Maintenance required. The owner, agent or occupant in charge of all rat-free and/or ratproofed buildings or structures shall maintain them in a rat-free and/or ratproof condition and repair all breaks or leaks that may occur in the ratproofing without a specific order of the chief of police. (Ord. 2396 §5, 1950).

8.08.060 Ratproofing-Removal prohibited. It is unlawful for the owner, occupant, contractor, public utility company, plumber or any other person to remove the ratproofing from any building or structure for any new openings that are not closed or sealed against the entrance of rats. (Ord. 2396 §6, 1950).

8.08.070 Cement floors required when. Whenever conditions inside or under any building or structure provide such extensive

harborage for rats that the chief of police deems it necessary to eliminate such harborage, he may require the owner or occupant in charge of any such building or structure to install suitable cement floors in basements, or to require such owner or occupant to correct such rat harborage as may be necessary in order to facilitate the eradication of rats. (Ord. 2396 §7, 1950)

8.08.080 Feed storage. All food and feed within the city for feeding chickens, cows, pigs, horses and other animals shall be stored in rat-free and ratproof containers, compartments or rooms unless stored in a ratproof building. (Ord. 2396 §8, 1950).

8.08.090 Garbage accumulation and dumping prohibited. It is unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building, structure or premises so that the same affords food or harborage for rats, or to dump or place on any premises, land or waterway any dead animals or waste vegetable or animal matter of any kind. (Ord. 2396 §9, 1950)

8.08.100 Rubbish or junk accumulation prohibited—Exception. It is unlawful for any person to accumulate or permit the accumulation on any open lot, or other premises, of any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish or any articles of junk which provide rat harborage, unless the same are placed on open racks that are elevated not less than eighteen inches above the ground, evenly piled or stacked. (Ord. 2396 §10, 1950).

8.08.110 Inspection authority. The chief of police is empowered to make such inspections of the interior and exterior of any building or structure as in his opinion may be necessary to determine full compliance with this chapter. The chief of police may make periodic inspections at intervals of not more than forty-five days of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in the ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may enter such buildings again, the chief of police shall serve the owner or occupants with written notice to abate the conditions found. (Ord. 2396 §11, 1950).

8.08.120 Violation—Penalty. Any person who violates any provision of this chapter shall be punished by a fine of not

more than three hundred dollars or imprisonment of not more than ninety days or both constitute a separate offense. Each day's violation shall (Ord. 2396 §12, 1950).

## Chapter 8.12

### WEED CONTROL

#### Sections:

- 8.12.010 Cutting weeds required when-Notice.
- 8.12.020 Duty to cut weeds.
- 8.12.030 Notice to cut and service.
- 8.12.040 Noncompliance-Director of public works to do work when.
- 8.12.050 Removal by city-Cost assessment.
- 8.12.060 Source and disposition of funds for city work.

8.12.010 Cutting weeds required when-Notice. The owner or occupant of any lot or parcel of land in the city shall cut close to the ground and remove or destroy all brush, weeds, thistles, grass, or other rank or noxious vegetation growing to a height greater than ten inches upon said lot or parcel of land when directed to do so in accordance with this chapter. (Ord. 4138 §1, 1981).

8.12.020 Duty to cut weeds. Any person, firm or corporation owning, possessing, or having the care or custody of any lot or parcel of land within the city shall be in violation of this chapter if he fails or neglects to remove those items enumerated in Section 8.12.010 upon receipt of notice from the director of public works or the fire chief. (Ord. 4138 §2, 1981).

#### 8.12.030 Notice to cut and service.

A. Notice shall be in a written form directing the person to remove said brush, grass, or weeds, etc., within five days of receipt of the communication or the city will cause the same to be done and it shall charge the cost thereof as a lien against the property. Notice to so perform may be served upon the owner or occupant in person if he be found upon the premises or within the city.

B. In the event that the owner or occupant cannot be found within the city after reasonable diligence and inquiry, such notice shall be mailed by certified mail to the last known

address of such owner or occupant as shown by the records of the Yamhill County assessor's office. In the event the said owner or occupant or person having the care or custody of any lot or parcel of land within the city cannot be located or refuses service of said certified mail, such notice shall be posted in a conspicuous place upon said premises and a copy thereof mailed to the last known address of said owner or occupant. (Ord. 4138 §3, 1981).

8.12.040 Noncompliance—Director of public works to do work when. If any person, firm or corporation owning, possessing, or having care or custody of any lot or parcel of land within the city fails or neglects to destroy the brush, grass or weeds within five days of the notice specified in Section 8.12.030, the director of public works may go upon such lots or parcels with such assistance as he may deem necessary and destroy and eradicate said brush, grass or weeds in such manner as in his judgment shall be most effective. (Ord. 4138 §4, 1981).

8.12.050 Removal by city—Cost assessment.

A. Upon the completion of the work, the director of public works shall file with the common council an itemized statement of the cost thereof plus twenty-five percent to cover the expense of inspection, overhead, enforcement of this chapter and the service or posting of the notice required in Section 8.12.030, but the minimum charge for any lot or parcel of land shall be ten dollars; provided, however, if any property owner requests grass or weed cutting services prior to the written notice provided in Section 8.12.030, such minimum charge shall be five dollars.

B. The city council, after having received an itemized statement from the director of public works, shall notify the property owner of its intent to declare the correctness of said statement and to create a lien upon the property involved to be enforceable against said property in the same manner as provided for the enforcement of liens for street improvements. The council shall by certified mail send a notice to the property owner of said intent not later than ten days prior to said matter appearing on the agenda for a regularly scheduled council meeting. (Ord. 4138 §5, 1981).

8.12.060 Source and disposition of funds for city work. The cost of the cutting and removal of brush, grass, and weeds shall be paid from the street fund and all income resulting from the enforcement of this chapter and the collection of the cost of such cutting and removal shall be credited to said fund. (Ord. 4138 §6, 1981).



## Chapter 8.16

### NUISANCES\*

#### Sections:

#### ARTICLE I. DEFINITIONS

8.16.010 Definitions.

#### ARTICLE II. MISCELLANEOUS NUISANCES

8.16.020 Bees.

8.16.060 Burning and Accumulation of Materials  
Constituting a Fire Hazard.

8.16.150 Unnecessary noise.

#### ARTICLE III. ANIMALS

8.16.152 Removal of carcasses.

8.16.155 Fowl.

#### ARTICLE IV. NUISANCES AFFECTING PUBLIC HEALTH

8.16.158 Nuisances affecting public health.

#### ARTICLE V. NUISANCES AFFECTING PUBLIC SAFETY

8.16.160 Creating a hazard.

8.16.162 Attractive nuisances.

8.16.165 Defective sidewalks.

8.16.168 Scattering rubbish.

8.16.170 Trees.

8.16.172 Fences.

8.16.175 Surface waters, drainage.

#### ARTICLE VI. NUISANCES AFFECTING PUBLIC PEACE

8.16.178 Radio and television interference.

8.16.180 Junk.

#### ARTICLE VII. UNENUMERATED NUISANCES

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For statutory provisions on city power to control noise, see ORS 467.100(1); for provisions on city dog control see ORS 609.015(1).

Sections: (continued)

8.16.182 Unenumerated nuisances.

ARTICLE VIII. ABATEMENT PROCEDURE

8.16.185 Abatement procedure—Notice issuance.

8.16.188 Abate procedure—Contents of notice.

8.16.190 Entry on private property.

8.16.192 Hearing by the court.

8.16.195 Abatement by the city and appraisal.

8.16.198 Public sale notice.

8.16.200 Public sale.

8.16.210 Redemption before sale.

8.16.220 Assessment of costs.

8.16.230 Applicability—Officers' powers.

ARTICLE IX. PENALTY

8.16.240 Violation—Penalty

ARTICLE I.  
DEFINITIONS

8.16.010 Definitions. As used in this chapter:

A. "Person" means a natural person, firm, partnership, association or corporation.

B. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

C. "Person responsible" means the person responsible for abating a nuisance including:

1. The owner;

2. The person in charge of property, as defined in this section;

3. The person who caused a nuisance to come into or continue in existence, said nuisance being defined in this chapter or another ordinance of the city.

D. "Public place" means a building, way, place or accommodation, publicly or privately owned, open and available to the general public. (Ord. 4409 §1, 1987; Ord. 2963 §1, 1961).

ARTICLE II.  
MISCELLANEOUS NUISANCES

8.16.040 Bees.

A. Beehives or bee colonies shall not be maintained or kept on the ground closer than thirty feet from a public right-of-way, alley, public property, private building or place open to the public other than that of the beehive or bee colony keeper.

1. Bees may be kept on the ground not closer than fifteen feet from neighboring property provided there exists a six-foot or higher fence, hedge, or structure at the property line immediately adjacent to the hive or colony to force the bees to raise their flight path over the neighboring property.

2. A hive or colony may be maintained not closer than fifteen feet from the above-enumerated places on a deck, attic, roof or balcony at least eight feet above ground.

B. Not more than three bee colonies shall be kept on a city lot of nine thousand square feet or less. Three additional hives may be kept on each additional nine thousand square feet of property that constitutes a part of one lot.

1. Unused bee equipment shall not be left out in the open where accessible to bees.

C. Bees shall not be kept on a property where a person who resides within three hundred feet from the hive or colony has a medically certified allergy to the sting of bees.

1. An individual who is allergic to bee stings shall file with the city police a medical certificate attesting to his allergy and shall provide information concerning the location of the beehive or colony and its distance from his property.

2. The city shall attempt to resolve the matter before commencing any legal action authorized under this chapter, however, failure to so attempt shall not be a defense to a violation filed under this section.

D. Beehives or colonies being transported through or within the city shall not be left on a vehicle which is parked or left unattended during daylight hours on a city street, public parking lot, or private property left open to the general use of the public. Beehives or colonies on a vehicle which is parked on private property shall be more than thirty feet from a public right-of-way, alley, public property, private building, or place open to the public other than that of the beehive or bee colony keeper.

E. Penalty. An individual convicted of violating this chapter shall be fined not less than twenty-five dollars nor more than one hundred dollars for each day that the violation occurs. Trial shall be before the judge without a jury. The city may seek a mandatory injunction to enforce the terms of

this chapter in a court of competent jurisdiction, (Ord 4151 \$1-\$5, 1981).

8.16.060 Burning and Accumulation of Materials  
Constituting a Fire Hazard.

A. No person shall kindle, maintain, or allow to be maintained, an outdoor fire, bonfire, rubbish fire, burn barrel fire, or garbage fire, nor shall any person kindle, maintain or allow to be maintained a fire for the purpose of burning grass, hay, straw, tree parts or trimmings, nor shall any person kindle, maintain, or allow to be maintained a fire for land clearing operations or for commercial burning, nor shall any person kindle, maintain, or allow to be maintained any other type of open burning with the following exceptions:

(1) Between October 15 and November 15 and between May 1 and May 31, burning of yard debris is allowed on any day which is a Department of Environmental Quality approved burn day. These time periods may be extended by the Fire Chief, at his or her sole discretion.

(2) Outdoor recreation fires shall be allowed in accordance with the provisions of the Uniform Fire Code.

(3) Fires set and maintained for fire fighting training or training fire protection personnel.

(4) Fire requested by law enforcement personnel for the destruction of evidence when the evidence is no longer needed for law enforcement purposes.

(5) In cases of fire hazard that can not, in the judgment of the Fire Chief or designee, be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. This permit is to be issued by the Fire Chief or designee.

(6) The Fire Chief or designee is authorized to issue special permits for ceremonial fires.

(7) The Fire Chief or designee is authorized to require that burning be immediately discontinued if it is determined that smoke emissions are offensive to occupants or surrounding property, if the burning is determined to be hazardous, or if the burning is determined to be detrimental to the public health.

B. No person shall accumulate or suffer or allow to accumulate material which, in the judgment of the Fire Chief or designee, constitutes a fire hazard.

C. Violation of this ordinance shall be considered an infraction and may be punishable by a fine of not less than \$50.00 for the first cited violation, not less than \$100.00 for the second cited violation, and not less than \$250.00 for each subsequent cited violation. Any act prohibited by this

ordinance shall be a nuisance and shall be subject to immediate summary abatement as provided in this code. Costs of abatement shall be assessed against any person who violates the provisions of this ordinance and shall be imposed in addition to any fine. (Ord. 4742 §1, 2001).

8.16.150 Unnecessary noise.

A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

B. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be construed to be exclusive:

1. The keeping of any bird or animal which by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity;

2. The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;

3. The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise;

4. The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;

5. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper city authorities;

6. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;

7. The erection, including excavation, demolition, alteration or repair, of any building in residential districts, other than between the hours of seven a.m. and six p.m., except upon special permit granted by the common council;

8. The use of any gong or siren upon any vehicle, other than a police, fire or other emergency vehicle;

9. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;

10. The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor

vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;

11.The use or operation of any automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the common council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment;

12.The making of any noise by crying, calling or shouting, or by any means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided, that newsboys may sell newspapers and magazines by public outcry, and persons having a valid permit to do so under the ordinances of the city may vend merchandise in the streets by public outcry;

13.The conducting, operating or maintaining of any garage within one hundred feet of any private residence, apartment, roominghouse or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of eleven p.m. and seven a.m. (Ord. 2963 §17, 1961).

### ARTICLE III. ANIMALS

8.16.152 Removal of carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose the carcass. (Ord. 4409 §2, 1987).

8.16.155 Fowl. No person shall permit any or controlled by him to run at large in the city. (Ord. 4409 §3, 1987).

### ARTICLE IV. NUISANCES AFFECTING PUBLIC HEALTH

8.16.158 Nuisances affecting public health. No person cause or permit a nuisance affecting public health on property

owned or controlled by him. The following is a nonexclusive list of nuisances affecting public health that may be abated as provided in this chapter:

A. Open vaults or privies constructed and maintained with the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;

B. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city;

C. Stagnant water that affords a breeding place for mosquitoes and other insect pests;

D. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;

E. Decayed or unwholesome food offered for human consumption;

F. Premises that are in such a state or condition as cause an offensive odor or that are in an unsanitary condition;

G. Drainage of liquid wastes from private premises;

H. Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor;

I. Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. (Ord. 4409 §4, 1987).

## ARTICLE V. NUISANCES AFFECTING PUBLIC SAFETY

8.16.160 Creating a hazard. No person shall create a hazard by:

A. Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed;

B. Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve inches or more, and failing to cover or fence it with a suitable protective construction. (Ord. 4409 §5, 1987).

8.16.162 Attractive nuisances.

A. No owner or person in charge of property shall permit on the property:

1. Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;

2. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

B. This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 4409 §6, 1987).

#### 8.16.165 Defective sidewalks.

A. No owner of property (improved or unimproved), abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes danger to persons using it.

B. The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, cumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abut property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to personal property arising as a result of their failure to so main the sidewalks. (Ord. 4409 §7, 1987).

#### 8.16.168 Scattering rubbish.

A. No person shall deposit, permit, or allow, on public or private property, bush, trash, debris, refuse or any substance that would ate a stench or fire danger, detract from the cleanliness safety of the property or would be likely to injure a pet, animal, or vehicle traveling on a public way.

B. Rubbish, trash, debris, or refuse in sealed containers or in plastic bags placed for collection by the soil waste collector or recyclable material collector is not within the terms of this chapter unless left on private property for more than one week. (Ord. 4409 §8, 1987).

8.16.170 Trees. No owner or person in charge of property shall allow all or a part of a dead or decaying tree stand if it is a danger to the public or to persons or property on or near the property. (Ord. 4409 §9, 1987).

#### 8.16.172 Fences.

A. No owner or person in charge property shall construct or maintain a barbed wire fence permit barbed wire to remain as part of a fence along a walk or public way, except such wire may



be placed above top of other fencing not less than six feet, six inches high.

B. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line another person. (Ord. 4409 §10, 1987).

8.16.175 Surface waters, drainage.

A. The owner or person in charge of a building in charge of a building or structure shall not permit ice or snow to fall from the building or structure onto street or public sidewalk.

B. The owner or person in charge of property shall stall and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk. (Ord. 4409 §11, 1987).

ARTICLE VI.  
NUISANCES AFFECTING PUBLIC PEACE

8.16.178 Radio and television interference.

A. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

B. This section does not apply to devices licensed, approved, and operated under the rules and regulations of Federal Communications Commission. (Ord. 4409 §12, 1987).

8.16.180 Junk.

A. No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress or egress.

B. The term "junk," as used in this section, include all nonoperative motor vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

C. This section does not apply to junk kept in a licensed junkyard or automobile wrecking house. (Ord. 4409 §13, 1987).

ARTICLE VII.  
UNENUMERATED NUISANCES

8.16.182 Unenumerated nuisances.

A. The acts, conditions or objects specifically enumerated and defined in Sections 8.16.152 to 8.16.180 are declared public nuisances and may be abated by the procedures set forth in Sections 8.16.185 to 8.16.220.

B. In addition to the nuisances specifically enumerated in this or any other ordinance, every other thing, substance or act that is determined by the council to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and may be abated as provided in this chapter. (Ord. 4409 §14, 1987).

ARTICLE VIII.  
ABATEMENT PROCEDURE

8.16.185 Abatement procedure—Notice issuance. A police officer or employee of the city designated as the nuisance abatement officer, when alleging that a nuisance exists, shall:

A. Attempt to discover the person(s) responsible for the nuisance; and

B. Give written notice to the person(s) responsible by posting, or personal service, or by certified mail, or any combination of the above that a condition on the property is a nuisance and is in violation of this chapter. (Ord. 4409 §15, 1987).

8.16.188 Abatement procedure—Contents of notice. A notice issued under Section 8.16.185 shall contain:

A. A description of the conditions found upon the property that are in violation of this chapter and that within seven days after notice is given (personal service, posting or certified mail) the nuisance must be abated. The notice shall also contain:

1. A description of the real property, by street address or otherwise, on which the nuisance exists;
2. A description of the nuisance;
3. A statement that, unless the nuisance is removed the city may abate the nuisance and the cost of abatement will be charged to the person responsible;

4. If the person responsible is not the owner, an additional notice (if none was originally given) shall be sent to the owner, stating that if the cost of abatement is not paid by the person responsible, it (the cost) may be assessed to and become a lien on the property.

B. Upon completion of the posting or mailing or personal service, the person or persons posting, or mailing, or making the personal service shall execute and file certificates stating the date and place at which said actions occurred.

C. That the alternative to compliance with subsection of this section is to petition the court clerk within the seven-day period described in subsection A by making a written request to appear before the McMinnville municipal court to show the nuisance doesn't exist or why the nuisance should not be immediately abated.

D. That failure to comply with this chapter authorizes the city to abate the nuisance, charge the abatement costs against the real property from which it was abated, and to dispose of any property seized at a public sale to reduce an costs incurred in the abatement process. (Ord. 4409 §16, 1987).

#### 8.16.190 Entry on private property.

A. A law enforcement or nuisance abatement officer is authorized to enter onto private property at all reasonable times and examine the alleged nuisance to determine whether it is in violation of this chapter. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

B. No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the nuisance in question or the property on which it is located.

C. No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting the alleged nuisance when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4409 §17, 1987).

#### 8.16.192 Hearing by the court.

A. Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why the nuisance should not be immediately abated and to receive

evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of said nuisance. After the hearing, the judge may order the nuisance abated by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Sections 8.16.185 and 8.16.188.

B. The court shall make its order in the form of a court order declaring the condition to be a public nuisance. The court order may order the abatement of more than one nuisance and may consolidate the hearings and orders relating to a specific parcel or parcels under common ownership or control. Persons receiving the notice specified in Sections 8.16.185 and 8.16.188 shall be sent copies of the court order.

C. The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for the abatement of the nuisance when, in its opinion, circumstances justify such action. It shall refuse to order the abatement of a condition when, in the opinion of the court, it is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4409 §18, 1987).

#### 8.16.195 Abatement by the city and appraisal.

A. Seven days after giving the notice required in Section 8.16.185, or, if a hearing is held, seven days after the entry of a court order declaring a condition to be a public nuisance as required in Section 8.16.188, the city will have jurisdiction to abate the nuisance and may remove the nuisance by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a nuisance under the provisions of this chapter. (Ord. 4409 §19, 1987).

#### 8.16.198 Public sale notice.

A. If the value of any property exceeds seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a news paper of general circulation within the city. The notice of sale shall state:

1. The sale is of property in possession of the city which has been recovered in a nuisance abatement procedure;
2. A description of the property and any other information that will aid in accurately identifying the material to be sold;
3. The terms of the sale;

4. The date, time, and place of the sale.

B. The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4409 §20, 1987).

8.16.200 Public sale.

A. If material or goods seized or removed is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the material to be sold;

B. The material or goods shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs;

C. At the time the purchase price is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder;

D. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4409 §21, 1987).

8.16.210 Redemption before sale.

A. Material or goods impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the material or goods was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:

1. Submit satisfactory evidence of ownership or interest in the material or goods to the law enforcement officer;

2. Pay the costs owing at the time the application to redeem is made;

3. Give evidence that the nuisance character of the material or goods will not be resumed.

B. Upon compliance with subsection A of this section, the law enforcement officer shall execute a receipt and cause the material to be returned. (Ord. 4409 §22, 1987).

8.16.220 Assessment of costs.

A. After disposing of any material and goods and crediting any money received from sale or said goods and material to the costs, the city recorder shall give notice by personal service or by certified mail to the person in charge of the property and the owner the property from which the material was removed:

1. Of any refund of excess funds derived from the sale;

2. Of the unpaid costs of abatement.

a. That the costs as indicated will be assessed to and become a lien against the real property unless paid within thirty days from the date of the notice,

b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder within twenty days from the date of the notice of unpaid costs;

B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.

C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket.

E. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property. (Ord. 4409 §23, 1987).

8.16.230 Applicability-Officers' powers. The procedure provided by this chapter is not exclusive but is in addition to procedure provided by other ordinances, and furthermore, the health officer, the chief of the fire department and the police officers of this city may proceed summarily to abate a sanitary or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

ARTICLE IX.  
PENALTY

8.16.240 Violation-Penalty.

A. Any person violating 8.16.240 any of the provisions of this chapter shall, upon conviction thereof, be punished by imprisonment for a period not to exceed ninety days, or by a fine not to exceed three hundred dollars, or both. Each day's

violation of a provision of this chapter shall constitute a separate offense.

B. The abatement of a nuisance as provided in chapter shall not constitute a penalty for violation chapter, but shall be in addition to any penalty imposed a violation of the chapter. (Ord. 2963 §§26, 27, 1961).

## Chapter 8.18

### CHRONIC NUISANCE

#### Sections:

- 8.18.010 Declaration of Purpose.
- 8.18.020 Chronic Nuisance Property.
- 8.18.030 Definitions.
- 8.18.040 Police Chief's Determination.
- 8.18.050 Determination of Council or Designee.
- 8.18.060 Remedies.
- 8.18.070 Multi-Unit Property.
- 8.18.080 Civil Penalty.
- 8.18.090 Request for Hearing.
- 8.18.100 Hearing.
- 8.18.110 Penalty and Costs of Hearing as Lien.
- 8.18.120 Closure of Property.
- 8.18.130 Entering Closed Property.
- 8.18.140 Liability.

8.18.010 Declaration of Purpose. It is hereby found and declared that:

A. Repeated nuisance activities occurring on, or resulting from the use of, certain properties within the City create unreasonable disruptions and may create unsafe conditions in the neighborhoods where the properties are located;

B. Chronic nuisance properties degrade neighborhoods;

C. Existing state criminal statutes and City ordinances are inadequate to address, control or remedy the adverse impacts of chronic unlawful activity occurring at the properties;

D. Civil regulation of these properties will provide a remedy to the problems caused by these chronic behaviors and will promote and protect the public health, safety and welfare. (Ord. 4784 §1, 2003).

8.18.020 Chronic Nuisance Property.

A. Any property within the City that becomes a chronic nuisance property, as defined herein, is in violation of this chapter and subject to its remedies.

B. Any person who permits property under his or her ownership or control to be a chronic nuisance property, as defined herein, shall be in violation of this chapter and subject to its remedies. (Ord. 4784 §2, 2003).

8.18.030 Definitions.

A. "Abate" means affirmative actions to remove, to stop, to prevent a nuisance including but not limited to:

1. Restricting or limiting noise, loitering, parking or access to the property, including posting the property with signs indicating such restrictions;

2. Limiting the hours of operation of a business;

3. Closing the property for not less than ten days or more than six months;

4. Entering premises for purposes of removing, compelling the removal or destruction of the structure, thing, substance, condition or property constituting a nuisance;

5. Filing a civil complaint in a court of competent jurisdiction.

B. "Chronic nuisance property" means:

1. Property upon which the owner permits three or more separate incidents listed below to occur within any thirty-day period, or five or more separate incidents listed below within any ninety-day period, at least one of which separate incidents must have resulted in a citation or arrest;

2. Property, the use of which has a causal relation to three or more separate incidents listed below occurring within any thirty-day period, or five or more separate incidents listed below within any ninety-day period, at least one of which separate incidents must have resulted in a citation or arrest, and all of which occurred within one hundred feet of the boundary line of the subject property;

3. Any combination of separate incidents as specified in Section 3. B. 1. and B. 2. which amounts to three or more separate incidents listed below occurring within any thirty-day period or five or more separate incidents listed below within any ninety-day period, at least one of which separate incidents must have resulted in a citation or arrest;

4. For the purposes of Section 3. B., the following offenses shall constitute incidents which would support a finding of chronic nuisance property:

a. Disorderly conduct as defined in ORS 166.025 or MMC 9.04.015;



b. Discharge of a firearm in violation of ORS 166.220 or MMC 9.44.020;

c. Noise disturbance as defined in MMC 8.16.150 or 9.32.040;

d. Minor in possession of alcohol as defined in ORS 471.430;

e. Public indecency as defined in ORS 163.465 or MMC 9.243040;

f. Criminal mischief as defined in ORS 164.345 through ORS 164.365 or MMC 9.04.015;

g. Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017;

h. Illegal gambling as defined in ORS 167.117 or ORS 167.122 through ORS 167.127;

i. Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482 or MMC 9.20.020, 9.40.090, or 9.40.100;

j. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, or ORS 475.940 through 475.995;

k. Endangering the welfare of a minor as defined in ORS 163.575 or MMC 9.40.070;

l. Harassment as defined in ORS 166.065 or MMC 9.04.015;

m. Assault as defined in ORS 163.160 through 163.185 or MMC 9.12.040;

n. Public consumption of alcohol as defined in MMC 9.20.020;

o. Offensive littering as defined in ORS 164.805 or MMC 9.04.015;

p. Menacing as defined in ORS 163.190, 166.155, 166.165 or MMC 9.12.010;

q. Reckless endangering as defined in ORS 163.195 or MMC 9.12.030;

r. Sale of drug paraphernalia as defined in MMC 9.22.010 through 9.22.050;

s. Begging as defined in MMC 9.32.020;

t. Public urination and indecent exposure as defined in MMC 9.24.040;

u. Animal abuse, neglect, abandonment, or fighting, or dog fighting as defined in ORS 167.315 through 167.330, 167.340, 167.355, 167.365 or MMC 9.16.010.

C. "Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on property.

D. "Good cause" means circumstances beyond the ability of a person acting with reasonable care and diligence to control.

E. "Incident" means an occurrence of one of the nuisance behaviors set forth in Section 3 B 3. To qualify, all incidents must be based on either, 1) the sworn statement of a person who personally witnessed the alleged incident, 2) personal observation of a law enforcement officer, 3) an allegation made by the owner of the property or the owner's agent, or 4) a determination by a law enforcement officer after an investigation that there are reasonable grounds to conclude that the alleged incident did, in fact, occur.'

F. "Owner" means any person, agent, firm or corporation having a legal or equitable or management interest in a property. Owner includes, but is not limited to:

1. A mortgagee in possession in whom is vested:

a. All or part of the legal title to the property;

or

b. All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

2. A person who has the legal authority to control or to obtain authority to control what occurs on that property.

G. "Permit" means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

H. "Property" means any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not.

I. "Police Chief" means the official responsible for enforcement of state and City laws as provided by the Charter of McMinnville, Oregon, or Departmental designee.

J. "Structure" means that which is built or constructed, an edifice or building of any kind including units thereof or mobile homes; any of which is an addition to or a fixture on real property. (Ord. 4784 §3, 2003).

#### 8.18.040 Police Chief's Determination.

A. If the Police Chief determines that property may be chronic nuisance property, the Police Chief shall notify the owner and the owner's registered agent, if known, in writing. In deciding whether to proceed, the Police Chief shall consider whether the owner has reported the incidents and otherwise acted responsibly and whether proceeding would discourage future reporting and cooperation in discouraging unlawful behavior. The notice shall contain the following information:

1. The street address or description sufficient for identification of the property;

2. That the Police Chief is considering whether the property is a chronic nuisance property together with a concise description of the information upon which the Police Chief is relying. If any of the incidents relied on occurred on property other than that which is the subject of the notice, the notice shall include a concise description of the location and the causal relationship between the subject property and the incident;

3. A direction that the owner has fifteen days from the date of mailing the notice to provide information to the Police Chief demonstrating that the property is not a chronic nuisance, inform the Police Chief of the actions the owner intends to take to address the allegations or indicate good cause as to why the owner cannot do so.

B. If the owner fails to respond or to demonstrate to the Police Chief that further action should not be taken, the Police Chief shall issue a determination of chronic nuisance and direct the owner to abate the nuisance within thirty days, or show good cause to the Police Chief why the owner cannot meet the deadline. The notice shall state that:

1. If the nuisance is not abated within the thirty-day period, and good cause for failure to abate is not shown, the Council, or its designee, may order abatement or closure of the property with appropriate conditions. The Council, or its designee, may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction;

2. If the Council or its designee orders the property owner to take some action to abate the nuisance, the owner may be required to pay to the City a civil penalty of two hundred fifty dollars a day for each day the owner fails to take the action;

3. If the Council or its designee orders the owner to abate the nuisance, the owner may be required to pay a civil penalty of five hundred dollars per incident for subsequent incidents, as defined by Section 3. B. 3, occurring on the property within six months of the order;

4. Permitting chronic nuisance property is a violation of this chapter;

5. The above remedies are in addition to those otherwise provided by law.

C. Service of a notice to the property owner provided for in this chapter is completed upon mailing the notice by certified mail, return receipt requested, postage prepaid, addressed to:

1. The owner's registered agent, if any is known; and

2. The owner at the address of the property believed to be a chronic nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Police Chief.

D. A copy of the notice shall be served on occupants of the property, if different from the owner. Service shall be completed upon mailing the notice first class, postage prepaid, address to "occupant" of each unit of the property believed to be a chronic nuisance property.

E. In addition, a copy of the Police Chief's determination that the property is a chronic nuisance shall be posted on the main entrance of the property in a conspicuous manner.

F. The failure of any person or owner to receive actual notice of the determination by the Police Chief shall not invalidate or otherwise affect the proceedings under this chapter. (Ord. 4784 §4, 2003).

#### 8.18.050 Determination of Council or Designee.

A. If the Police Chief determines that the owner has failed to abate the chronic nuisance or demonstrate good cause as to why the owner cannot do so, the Police Chief may refer the matter to the Council or a hearings officer designated by the Council for a hearing. The Council or hearings officer shall give notice of the hearing to the owner and occupants, if different from the owner, and post notice of the hearing on the main entrance of the property. At the time set for hearing the owner and occupants may appear and be heard. The Council or hearings officer shall determine de novo whether the property is chronic nuisance property, whether the nuisance has been abated and whether the owner has shown good cause or otherwise has a valid defense.

B. The City has the initial burden of showing by a preponderance of the evidence that the property is chronic nuisance property. If the City is relying on an incident that occurred on property other than the property that is the subject of the chronic nuisance determination, the City shall demonstrate some causal relationship between activities occurring on the property and the incident. The activities must have contributed to, but need not be the sole or predominate cause of the incident. Evidence demonstrating a causal connection may include, but is not limited to:

1. That the owner knew or reasonably should have known that an employee, customer, invitee or other person associated with the property would engage in conduct listed in Section 3. B. 3;

2. Activities on the subject property that encouraged, engendered, promoted, contributed to or otherwise made the incident more likely to occur.

C. It shall be an affirmative defense to an action under this chapter that the owner could not, in spite of the exercise of reasonable care and diligence, control the activities on the subject property that constituted the incident or made the incident more likely to occur or otherwise remedy the situation leading to the finding that the property is chronic nuisance property. The owner has the burden of proving this defense by a preponderance of the evidence. The action shall be dismissed if the Council or hearings officer determines that the owner has proven this defense.

D. If the owner can prove by a preponderance of the evidence that the owner is unable to remedy the chronic nuisance within the time frames required by this chapter, the Council or hearings officer may elect to grant more time and continue its final determination as the Council or hearings officer determines is just. (Ord. 4784 §5, 2003).

#### 8.18.060 Remedies.

A. If the Council or hearings officer determines that property is chronic nuisance property and the owner has not demonstrated a valid defense, the Council or hearings officer may order that the nuisance be abated or close and secure the property against all use and occupancy for a period of not less than ten days and not more than six months.

B. Prior to issuing any order of abatement or closure, the Council or hearings officer shall consider the following factors:

1. The actions taken by the owner(s) to mitigate or correct the problem at the property;
2. The financial condition of the owner;
3. Whether the problem at the property was repeated or continuous;
4. The magnitude or gravity of the problem;
5. The level of cooperation of the owner in addressing the problem, including whether the owner reported the incidents;
6. The time and cost to the City in attempting to correct the problem; and
7. Any other factor deemed relevant by the Council or hearings officer. These factors are guidelines to inform the decision-making process, but the presence or absence of any factors shall not control the decision by the Council or hearings officer.

C. The order may include conditions under which abatement or closure is to occur.

D. Upon a determination by the Council or hearings officer that the property is a nuisance property, the Police Chief may file a notice of the proceedings to be placed with the property records of Yamhill County.

E. The remedies in this section are in addition to those otherwise provided by law. The City may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction. (Ord. 4784 §6, 2003).

#### 8.18.070 Multi-Unit Property.

A. Except as provided in paragraph B, in the case of multi-unit residential property, such as apartment complexes or motels, and multi-unit commercial property, such as shopping centers or industrial parks, under one ownership, the chronic nuisance determination and closure remedy shall be directed only to the unit or units that are the source or location of the incidents.

B. A chronic nuisance determination and remedy may be applied to multiple units, up to and including the entire property, if the Council or hearings officer determines that:

1. The incidents occurred in the common areas of the property or otherwise are not reasonably attributable to a particular unit;

2. The nature or scope of the incidents is such that they cannot reasonably be attributed to a particular unit; or

3. Incidents continue to occur despite previous imposition of remedies on specific units and the owner has demonstrated an inability or unwillingness to mitigate or correct the nuisance. (Ord. 4784 §7, 2003).

#### 8.18.080 Civil Penalty.

A. If the Council or hearings officer finds that a property is chronic nuisance property and orders the owner to take some action to abate the nuisance, the Police Chief may impose upon the owner a civil penalty of up to two hundred fifty dollars per day, payable to the City, for each day after the deadline the owner fails to take the action ordered.

B. If the Council or hearings officer orders the owner to abate the nuisance, the Police Chief may impose upon the owner a civil penalty of five hundred dollars per incident for subsequent incidents, as defined by Section 3. B. 3, occurring on the property within six months of the order.

C. A civil penalty is assessed by issuing written notice of penalty to the owner of chronic nuisance property and the owner's registered agent, if any is known. The notice shall contain the following information:

1. The street address or description sufficient for identification of the property;

2. That the Police Chief has found the owner has failed to take the action required by the Council or hearings officer, or that after an order to abate the nuisance, a subsequent nuisance activity has occurred, with a concise description of the conditions leading to the Police Chief's findings;

3. That the owner may request a hearing on the validity of the assessment of the penalty by filing a request with McMinnville Municipal Court within fourteen days of the mailing of the notice. The request must specifically state the grounds upon which the owner believes that the penalty is not valid;

4. The penalty is final when fourteen days have elapsed from the date of mailing the notice if a request for hearing is not filed, or upon entry of an order upholding the penalty by the Municipal Court after hearing.

D. The Police Chief shall not impose more than ten days of civil penalties at a time. The Police Chief may impose additional civil penalties after ten days by reissuing notice of imposition of penalties. (Ord. 4784 §8, 2003).

#### 8.18.090 Request for Hearing.

A. The owner of a property may challenge a chronic nuisance property determination, abatement order, closure or assessment of civil penalties by filing a request for a hearing with the McMinnville Municipal Court, and paying a filing fee of seventy-five dollars. The request must set forth the issues sought to be determined and a general statement of the relevant facts.

B. The owner shall serve a copy of the request for hearing on the City by personal delivery or mailing by first class to the office of City Attorney.

C. The request for a hearing must be received by the Municipal Court by four thirty p.m. on the fourteenth day after the order was issued. Failure to file the request with the Court within the time limit shall be a jurisdictional defect and a failure to exhaust remedies and the civil penalty or closure order shall become final. Failure to mail or deliver to the City a copy of the request within five days of filing with the Court shall constitute grounds for dismissal upon motion of the City unless the Court finds good faith excusable neglect. (Ord. 4784 §9, 2003).

#### 8.18.100 Hearing.

A. The Municipal Court shall hold a hearing upon a request filed as provided in Section 9. At the hearing the owner may contest the validity of the order or penalties. The City shall have the burden of showing that the property is chronic nuisance

property by a preponderance of the evidence. The owner shall have the burden of demonstrating that a valid defense applies and that the owner exercised reasonable care and diligence in attempting to remedy the problem.

B. Any order or penalty imposed may be stayed by the Court pending a hearing and decision on the matter by the Court.

C. In reaching its decision, the Court shall consider the factors set forth in Section 6. B.

D. The Court may assess costs of the hearing against the property owner if the Court determines that the order or civil penalty is valid. The Court shall order the property owner to reimburse the City for reasonable attorney's fees related to the hearing if the Court finds that there was no objectively reasonable basis for challenging the validity of the penalties or order.

E. The Court may order the City to pay the costs of the hearing, including the property owner's filing fee, if the Court finds that the order or penalties are not valid. The Court shall order the City to reimburse the property owner for reasonable attorney's fees if the Court finds that there was no objectively reasonable basis for imposing the order or penalties.

F. In no event shall the Court order either party to pay attorney's fees in excess of one thousand dollars.

G. The McMinnville City Attorney's office shall appear at any hearing under this chapter, and shall represent the interests of the City.

H. The Court may consider an issue or evidence that a party failed to raise before the Council or hearings officer only if the Court determines that the offering party could not reasonably have presented the issue or evidence before the Council or hearings officer. (Ord. 4784 §10, 2003).

#### 8.18.110 Penalty and Costs of Hearing as Lien.

A. The Police Chief shall forward a statement of the assessments for penalties, costs of abatement and, if ordered by the Court, hearing costs and attorney's fees to the Finance Director. The Finance Director shall notify the owner by mail of the sum of money due to the City. If that sum is not paid within forty-five days from the billing date, the Director shall file with the Council a statement of the sum due, plus an additional charge of five percent to cover administrative expenses. The owner shall be notified by mail of the time and place the Council will consider the statement of penalties and costs, and will be given a reasonable opportunity to be heard in objection thereto at the Council meeting. The Council will only determine if the statement of penalties and costs is correct, and will not reconsider the Court's decision as to whether the penalties and



costs of the hearing should be imposed. The Council shall determine the correct amount of penalties and costs and shall declare the same to be a lien upon the property involved, to be entered in the minor lien docket and enforced against the property, in the same manner provided for enforcement of liens for street improvement.

B. Nothing in this section shall be construed as restricting the authority of the City to enter into a settlement of the dispute, including waiving some or all amounts due to the City. (Ord. 4784 §11, 2003).

8.18.120 Closure of Property. If the Council or hearings officer has ordered closure of a property which is not challenged, or if the Municipal Court upholds an appeal of an order which has been challenged, the City shall take steps to physically secure the property against all use, and post conspicuous notices that the property has been closed. All costs reasonably incurred by the City in securing the property shall be made an assessment lien upon the property in the manner described in McMinnville Municipal Code. Costs include but are not limited to staff time and materials. Prior to physically closing the property, the City may but is not required to provide the owner with a brief opportunity to physically secure the property against all use at the owner's expense. (Ord. 4784 §12, 2003).

8.18.130 Entering Closed Property. It is unlawful for any person to enter, use or remain in or on property that has been ordered closed pursuant to this chapter. (Ord. 4784 §13, 2003).

8.18.140 Liability. Nothing herein shall be relief on or construed as establishing any City responsibility, obligation or liability to any third party, for damages or otherwise, arising from the actions or inaction of the City in applying this ordinance. Nothing herein lessens or otherwise alters the property owner's responsibility to third parties arising from use and condition of the property. (Ord. 4784 §14, 2003).

## Chapter 8.20

### FLAMMABLE LIQUID DELIVERY VEHICLES

#### Sections:

8.20.010 Definitions.

- 8.20.020 Applicability of provisions.
- 8.20.030 Operator precautions—Dead-man valve.
- 8.20.040 Deliveries—Vehicle location restriction.
- 8.20.050 Nozzle and discharge hose specification.
- 8.20.060 Violation—Penalty.

8.20.010 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

A. "Flammable liquids" means any liquid having point below one hundred forty degrees Fahrenheit and a vapor pressure not exceeding forty pounds per square (absolute) at one hundred degrees Fahrenheit.

B. "Tank vehicle" means and includes a truck, truck and trailer, or any other combination of vehicles used for the transportation of flammable liquids. (Ord. 3209 §2, §3, 1965).

8.20.020 Applicability of provisions. The provisions of this chapter shall apply to the transport of flammable liquids by tank motor vehicles which are used for the transportation of the normally stable flammable liquids. (Ord. 3209 §1, 1965).

8.20.030 Operator precautions—Dead-man valve required. The operator of any tank vehicle delivering petroleum products within the city shall remain at the control valve of such vehicle while such products are being discharged therefrom and shall exercise the control necessary to prevent overflowing, spills, or other similar accidents. A dead-man valve shall be required on all tank vehicles, and it is unlawful to block open the valve so as to make the dead-man feature inoperative. (Ord. 3209 §4, 1965).

8.20.040 Deliveries—Vehicle location restrictions. When making deliveries of flammable liquids, the tank vehicles shall be within the property lines, and no part of the tank vehicle shall extend over the sidewalks or into the street. All tank vehicles shall proceed in and out of service stations in a forward direction. (Ord. 3209 §5, 1965).

8.20.050 Nozzle and discharge hose specifications. No locking-type nozzle nor latching-type nozzle shall be used at any time in connection with the delivering of flammable liquid from any tank vehicle. The discharge hose from any tank vehicle at time of delivery shall be bonded and of a type for oil deliveries and must be an electrical band, and the nozzle shall not be taken from the opening while liquid is flowing therefrom. (Ord. 3209 §7, 1965).

8.20.060 Violation-Penalty. Any person, firm or corporation violating any provisions of this chapter shall be punished by a fine not exceeding three hundred dollars. (Ord. 3209 §9, 1965).

## Chapter 8.24

### PETROLEUM PRODUCT SERVICE PUMPS

#### Sections:

- 8.24.010 Installation of additional pumps or equipment prohibited where.
- 8.24.020 Applicability of provisions.
- 8.24.030 Violation-Penalty.

8.24.010 Installation of additional pumps or equipment prohibited where. From and after the passage of the ordinance codified in this chapter, no permits shall be issued or granted by the common council of the city for the installation of any additional pumps for supplying gasoline, distillate or other petroleum products for motor vehicles on the sidewalk on either side of Third Street between Adams Street and Hembree Street in the city, or the installation of any tanks or containers for storage of gasoline, distillate or other petroleum products under the sidewalk and other portion of the street on either side of Third Street between Adams Street and Hembree Street. (Ord. 3047 §1, 1962).

8.24.020 Applicability of provisions. The provisions of this chapter shall not be retroactive and the same shall not be construed to in any way interfere with service tanks and containers heretofore installed and for making necessary repairs thereto. (Ord. 3047 §2, 1962).

8.24.030 Violation-Penalty. Any person violating any provision of this chapter shall upon conviction thereof in the recorder's court be punished by a fine not to exceed three hundred dollars or by imprisonment in the city jail for a period not exceeding thirty days, or by both such fine or such imprisonment. (Ord. 3047 §3, 1962).

## Chapter 8.28

## DISCARDED VEHICLES

### Sections:

- 8.28.010 Definitions.
- 8.28.020 Declaration of public nuisance.
- 8.28.030 Prohibited action.
- 8.28.040 Investigation.
- 8.28.050 Contents of notice.
- 8.28.060 Entry on private property.
- 8.28.070 Hearing by the court.
- 8.28.080 Abatement by the city and appraisal.
- 8.28.090 Low value vehicle.
- 8.28.100 Public sale notice.
- 8.28.110 Public sale.
- 8.28.120 Redemption before sale.
- 8.28.130 Assessment of costs.

#### 8.28.010 Definitions. As used in this chapter:

A. "Costs" means the expense of removing, storing, or selling a discarded vehicle.

B. "Discarded vehicle" means:

1. A vehicle in one or more of the following conditions:

- a. Inoperative;
- b. Wrecked;
- c. Dismantled;
- d. Partially dismantled;
- e. Junked;

f. Any other vehicle not described in the above sections and stored on a residential lot (not including a driveway or trailer storage pad area) for more than thirty days without being operated away from the premises.

1. Discarded vehicles include major parts of vehicles, including but not limited to bodies, engines, transmissions, and rear ends.

C. "Law enforcement officer" includes any authorized law enforcement officer of the city.

D. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, owner, or person having possession, control, or title to property where a vehicle is located.

E. "Vehicle" means every device in, upon, or by which person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

F. "Vehicle owner" means an individual, firm, corporation, or unincorporated association with a claim, either individually

or jointly, of ownership or an interest, legal or equitable, in a vehicle. (Ord. 4384 §1, 1986).

8.28.020 Declaration of public nuisance. The open accumulation and storage of discarded vehicles is found to create a condition tending to reduce the value of private property; promote blight, deterioration, and unsightliness; invite plundering; create fire hazards; constitute an attractive nuisance causing a hazard to the health and safety of miners; create a harborage for rodents and insects; and to injurious to the health, safety, and general welfare of the community. Therefore, the presence of a discarded vehicle private property is declared to be a public nuisance which may be abated in accordance with the provisions of this chapter. (Ord. 4384 §2, 1986).

8.28.030 Prohibited action. No person shall store or permit the storage of a discarded vehicle upon private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with lawfully conducted business dealing in junked vehicles. (Ord. 4384 §3, 1986).

8.28.040 Investigation.

A. When a law enforcement officer investigates a discarded vehicle on private property and determines that a nuisance exists which should be abated the officer shall:

1. Attempt to discover the owner of the vehicle, the person in charge of the property, the owner of the property on which the vehicle is located; and

2. Give written notice to them by personal service or by certified mail that the vehicle is in violation of this chapter.

B. If the owner of the vehicle is not found, the officer shall place a notice on the windshield or some other part of the vehicle where it can be easily seen. (Ord. 4384 §4, 1986).

8.28.050 Contents of notice. A notice issued under Section 8.28.040 shall state:

A. That a certain discarded vehicle is in violation of this chapter and that within ten days after sending or posting the notice:

1. The vehicle must be removed from the city or to the storage yard of a lawfully conducted business dealing in junked vehicles; or

2. The vehicle must be completely enclosed within a building.

B. That the alternative to compliance with subsection of this section is to petition the court clerk within the ten-day

period described in subsection A of this section and make a written request to appear before the court to show why the vehicle should not be immediately abated.

C. That failure to comply with this chapter authorizes the city to remove the vehicle, charge the cost against the property from which it was removed, and to sell the vehicle to satisfy the costs of removal and storage. (Ord. 4384 §5, 1986).

#### 8.28.060 Entry on private property.

A. A law enforcement officer is authorized to enter onto private property at all reasonable times and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

B. No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the vehicle in question or the property on which it is located.

C. No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4384 §6, 1986).

#### 8.28.070 Hearing by the court.

A. Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the judge may order the vehicle removed by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Section 8.28.040.

B. The court shall make its order in the form of a court order declaring the vehicle to be a public nuisance. The court order may order the removal of more than one vehicle and may consolidate the hearing and orders relating to more than one vehicle. Persons receiving the notice specified in Section 8.28.040 shall be sent copies of the court order.

C. The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for removal of the vehicle when, in its opinion, circumstances justify such action. It shall refuse to order removal of the vehicle when the vehicle, in the opinion of the court, is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4384 §7, 1986).

8.28.080 Abatement by the city and appraisal.

A. Seven days after giving the notice required in Section 8.28.040, or, if a hearing is held, seven days after the entry of a court order declaring a vehicle to be a public nuisance as required in Section 8.28.070, the city will have jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a vehicle under the provisions of this chapter.

B. After removing the vehicle, the city shall have it appraised. (Ord. 4384 §8, 1986).

8.28.090 Low value vehicle.

A. If the vehicle is appraised at seven hundred fifty dollars or less, the law enforcement officer shall file an affidavit with the motor vehicles division describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The law enforcement officer may dispose of the vehicle and execute a certificate of sale without notice and public auction.

B. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §9, 1986).

8.28.100 Public sale notice.

A. If the vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state:

1. The sale is of discarded property in possession of the city;
2. A description of the vehicle, including the type, make, license number, identification number, and any other information that will aid in accurately identifying the vehicle;
3. The terms of the sale;
4. The date, time, and place of the sale.

B. The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4384 §10, 1986).

8.28.110 Public sale.

A. If a vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold.

B. The vehicle shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs.

C. At the time the purchase is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder.

D. The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §11, 1986).

8.28.120 Redemption before sale.

A. A vehicle impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:

1. Submit satisfactory evidence of ownership or interest in the vehicle to the law enforcement officer;

2. Pay the costs owing at the time the application to redeem is made;

3. Give evidence that the nuisance character of the vehicle will not be resumed.

B. Upon compliance with subsection A, the law enforcement officer shall execute a receipt and cause the vehicle to be returned. (Ord. 4384 §12, 1986).

8.28.130 Assessment of costs.

A. After disposing of the discarded vehicle and crediting any money received from sale of the vehicle to the costs, the city recorder shall give notice by personal service or by certified mail to the person in charge of the property and the owner of the property from which the vehicle was removed:

1. Of any refund of excess funds derived from the sale;

2. Of the unpaid costs of abatement,



a. That the costs as indicated will be assessed to and become a lien against, the real property unless paid within thirty days from the date of the notice.

b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder within twenty days from the date of the notice of unpaid costs.

B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.

C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket.

E. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property. (Ord. 4384 §13, 1986).